



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2006 REGULAR SESSION

SENATE BILL NO. 239

TUESDAY, MARCH 14, 2006

The following bill was reported to the House from the Senate and ordered to be printed.

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TREY GRAYSON
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Soller

AN ACT relating to employment at the Kentucky School for the Blind and the Kentucky School for the Deaf.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1 Section 1. KRS 18A.115 is amended to read as follows:

2 (1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise
3 all positions in the state service now existing or hereafter established, except the
4 following:

5 (a) The General Assembly and employees of the General Assembly, including the
6 employees of the Legislative Research Commission;

7 (b) Officers elected by popular vote and persons appointed to fill vacancies in
8 elective offices;

9 (c) Members of boards and commissions;

10 (d) Officers and employees on the staff of the Governor, the Lieutenant Governor,
11 the Office of the Secretary of the Governor's Cabinet, and the Office of
12 Program Administration;

13 (e) Cabinet secretaries, commissioners, office heads, and the administrative heads
14 of all boards and commissions, including the executive director of Kentucky
15 Educational Television and the executive director and deputy executive
16 director of the Education Professional Standards Board;

17 (f) Employees of Kentucky Educational Television who have been determined to
18 be exempt from classified service by the Kentucky Authority for Educational
19 Television, which shall have sole authority over such exempt employees for
20 employment, dismissal, and setting of compensation, up to the maximum
21 established for the executive director and his principal assistants;

22 (g) One (1) principal assistant or deputy for each person exempted under
23 subsection (1)(e) of this section;

24 (h) One (1) additional principal assistant or deputy as may be necessary for

1 making and carrying out policy for each person exempted under subsection
2 (1)(e) of this section in those instances in which the nature of the functions,
3 size, or complexity of the unit involved are such that the commissioner
4 approves such an addition on petition of the relevant cabinet secretary or
5 department head and such other principal assistants, deputies, or other major
6 assistants as may be necessary for making and carrying out policy for each
7 person exempted under subsection (1)(e) of this section in those instances in
8 which the nature of the functions, size, or complexity of the unit involved are
9 such that the board may approve such an addition or additions on petition of
10 the department head approved by the commissioner;

11 (i) Division directors subject to the provisions of KRS 18A.170. Division
12 directors in the classified service as of January 1, 1980, shall remain in the
13 classified service;

14 (j) Physicians employed as such;

15 (k) One (1) private secretary for each person exempted under subsection (1)(e),
16 (g), and (h) of this section;

17 (l) The judicial department, referees, receivers, jurors, and notaries public;

18 (m) Officers and members of the staffs of state universities and colleges and
19 student employees of such institutions; officers and employees of the
20 Teachers' Retirement System; and officers, teachers, and employees of local
21 boards of education;

22 (n) Patients or inmates employed in state institutions;

23 (o) Persons employed in a professional or scientific capacity to make or conduct a
24 temporary or special inquiry, investigation, or examination on behalf of the
25 General Assembly, or a committee thereof, or by authority of the Governor,
26 and persons employed by state agencies for a specified, limited period to
27 provide professional, technical, scientific, or artistic services under the

- 1 provisions of KRS 45A.690 to 45A.725;
- 2 (p) Interim employees;
- 3 (q) Officers and members of the state militia;
- 4 (r) State Police troopers and sworn officers in the Department of State Police,
- 5 Justice Cabinet;
- 6 (s) University or college engineering students or other students employed part-
- 7 time or part-year by the state through special personnel recruitment programs;
- 8 provided that while so employed such aides shall be under contract to work
- 9 full-time for the state after graduation for a period of time approved by the
- 10 commissioner or shall be participants in a cooperative education program
- 11 approved by the commissioner;
- 12 (t) Superintendents of state mental institutions, including heads of mental
- 13 retardation centers, and penal and correctional institutions as referred to in
- 14 KRS 196.180(2);
- 15 (u) Staff members of the Kentucky Historical Society, if they are hired in
- 16 accordance with KRS 171.311;
- 17 (v) County and Commonwealth's attorneys and their respective appointees;
- 18 (w) Chief district engineers and the state highway engineer;
- 19 (x) Veterinarians employed as such by the Kentucky Horse Racing Authority;
- 20 (y) Employees of the Kentucky Peace Corps;
- 21 (z) Employees of the Council on Postsecondary Education;
- 22 (aa) Executive director of the Commonwealth Office of Technology;
- 23 (ab) Employees of the Kentucky Commission on Community Volunteerism and
- 24 Service;~~and~~
- 25 (ac) Persons employed in certified teaching positions at the Kentucky School for
- 26 the Blind and the Kentucky School for the Deaf; and
- 27 (ad) Federally funded time-limited employees as defined in KRS 18A.005.

- 1 (2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or
2 amend the provisions of KRS 150.022 and 150.061.
- 3 (3) Nothing in KRS 18A.005 to 18A.200 is intended or shall be construed to affect any
4 nonmanagement, nonpolicy-making position which must be included in the
5 classified service as a prerequisite to the grant of federal funds to a state agency.
- 6 (4) Career employees within the classified service promoted to positions exempted
7 from classified service shall, upon termination of their employment in the exempted
8 service, revert to a position in that class in the agency from which they were
9 terminated if a vacancy in that class exists. If no such vacancy exists, they shall be
10 considered for employment in any vacant position for which they were qualified
11 pursuant to KRS 18A.130 and 18A.135.
- 12 (5) Nothing in KRS 18A.005 to 18A.200 shall be construed as precluding appointing
13 officers from filling unclassified positions in the manner in which positions in the
14 classified service are filled except as otherwise provided in KRS 18A.005 to
15 18A.200.
- 16 (6) The positions of employees who are transferred, effective July 1, 1998, from the
17 Cabinet for Workforce Development to the Kentucky Community and Technical
18 College System shall be abolished and the employees' names removed from the
19 roster of state employees. Employees that are transferred, effective July 1, 1998, to
20 the Kentucky Community and Technical College System under KRS Chapter 164
21 shall have the same benefits and rights as they had under KRS Chapter 18A and
22 have under KRS 164.5805; however, they shall have no guaranteed reemployment
23 rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An
24 employee who seeks reemployment in a state position under KRS Chapter 151B or
25 KRS Chapter 18A shall have years of service in the Kentucky Community and
26 Technical College System counted towards years of experience for calculating
27 benefits and compensation.

1 (7) On August 15, 2000, all certified and equivalent personnel, all unclassified
2 personnel, and all certified and equivalent and unclassified vacant positions in the
3 Department for Adult Education and Literacy shall be transferred from the
4 personnel system under KRS Chapter 151B to the personnel system under KRS
5 Chapter 18A. The positions shall be deleted from the KRS Chapter 151B personnel
6 system. All records shall be transferred including accumulated annual leave, sick
7 leave, compensatory time, and service credit for each affected employee. The
8 personnel officers who administer the personnel systems under KRS Chapter 151B
9 and KRS Chapter 18A shall exercise the necessary administrative procedures to
10 effect the change in personnel authority. No certified or equivalent employee in the
11 Department for Adult Education and Literacy shall suffer any penalty in the
12 transfer.

13 (8) On August 15, 2000, secretaries and assistants attached to policymaking positions
14 in the Department for Technical Education and the Department for Adult Education
15 and Literacy shall be transferred from the personnel system under KRS Chapter
16 151B to the personnel system under KRS Chapter 18A. The positions shall be
17 deleted from the KRS Chapter 151B system. All records shall be transferred
18 including accumulated annual leave, sick leave, compensatory time, and service
19 credit for each affected employee. No employee shall suffer any penalty in the
20 transfer.

21 Section 2. KRS 163.032 is amended to read as follows:

22 (1) The Kentucky Department of Education, with assistance from the Kentucky
23 Personnel Cabinet, shall adopt a salary schedule for teachers in the Kentucky
24 School for the Deaf and the Kentucky School for the Blind. The salary schedule
25 shall be the same as salary schedules in effect in local school districts in counties
26 containing a city of the first class and shall conform to the requirements for a single
27 salary schedule as defined in KRS 157.320, except the salary schedule shall not

1 limit the number of years of experience for a certified employee who transfers to
 2 the school.

3 (2) (a) Certified teachers in the Kentucky School for the Deaf and the Kentucky
 4 School for the Blind shall have the same statutory employment status and
 5 benefits as certified teachers in the public schools.

6 (b) If a teacher qualifies for and requests a tribunal under Section 3 of this Act,
 7 the Attorney General shall appoint the members.

8 (3) The Kentucky Department of Education, with assistance from the Kentucky
 9 Personnel Cabinet, shall adopt a salary schedule for administrators at the Kentucky
 10 School for the Deaf and the Kentucky School for the Blind which will provide for
 11 equitable salaries between teachers and administrators. The salary schedule, which
 12 shall be computed prior to July 1 of each year, shall be based on two hundred sixty
 13 (260) days per year.

14 (4) Once a teacher has been selected for hiring at the Kentucky School for the Blind
 15 or the Kentucky School for the Deaf, the Department of Education and the
 16 Personnel Cabinet shall complete the hiring process within two (2) weeks.

17 (5) A certified teacher employed at one (1) of the schools on the effective date of this
 18 Act whose job description does not include outreach responsibilities shall not be
 19 involuntarily assigned to work on a permanent basis outside the county in which
 20 the employing school is located.

21 (6) Nothing in Section 1 or Section 2 of this Act shall result in a loss of any leave
 22 accrued by a certified teacher employed prior to the effective date of this Act by
 23 one (1) of the schools. Accrued leave may be taken in accordance with the policy
 24 of the school.

25 Section 3. KRS 161.790 is amended to read as follows:

26 (1) The contract of a teacher shall remain in force during good behavior and efficient
 27 and competent service by the teacher and shall not be terminated except for any of

1 the following causes:

2 (a) Insubordination, including but not limited to violation of the school laws of
3 the state or administrative regulations adopted by the Kentucky Board of
4 Education, the Education Professional Standards Board, or lawful rules and
5 regulations established by the local board of education for the operation of
6 schools, or refusal to recognize or obey the authority of the superintendent,
7 principal, or any other supervisory personnel of the board in the performance
8 of their duties;

9 (b) Immoral character or conduct unbecoming a teacher;

10 (c) Physical or mental disability; or

11 (d) Inefficiency, incompetency, or neglect of duty, when a written statement
12 identifying the problems or difficulties has been furnished the teacher or
13 teachers involved.

14 (2) Charges under subsections (1)(a) and (1)(d) of this section shall be supported by a
15 written record of teacher performance by the superintendent, principal, or other
16 supervisory personnel of the district, except when the charges are brought as a result
17 of a recommendation made under KRS 158.6455.

18 (3) No contract shall be terminated except upon notification of the board by the
19 superintendent. Prior to notification of the board, the superintendent shall furnish
20 the teacher with a written statement specifying in detail the charge against the
21 teacher. The teacher may within ten (10) days after receiving the charge notify the
22 commissioner of education and the superintendent of his intention to answer the
23 charge, and upon failure of the teacher to give notice within ten (10) days, the
24 dismissal shall be final.

25 (4) Except as provided in Section 2 of this Act, upon receiving the teacher's notice of
26 his intention to answer the charge, the commissioner of education shall appoint a
27 three (3) member tribunal, consisting of one (1) teacher, who may be retired, one (1)

1 administrator, who may be retired, and one (1) lay person, none of whom reside in
2 the district, to conduct an administrative hearing in accordance with KRS Chapter
3 13B within the district. Priority for selection as a tribunal member shall be from a
4 pool of potential tribunal members who have been designated and trained to serve
5 as tribunal members on a regular and ongoing basis, pursuant to administrative
6 regulations promulgated by the Kentucky Board of Education. Funds appropriated
7 to the Department of Education for professional development may be used to
8 provide tribunal member training. The commissioner of education shall name the
9 chairman and set the date and time for the hearing. The hearing shall begin no later
10 than forty-five (45) days after the teacher files the notice of intent to answer the
11 charge.

12 (5) A hearing officer shall have final authority to rule on dispositive prehearing
13 motions.

14 (6) The hearing may be public or private at the discretion of the teacher. At the hearing,
15 a hearing officer appointed by the commissioner of education shall preside with
16 authority to rule on procedural matters, but the tribunal shall be the ultimate trier of
17 fact. The local board shall pay each member of the tribunal a per diem of one
18 hundred dollars (\$100) and travel expenses.

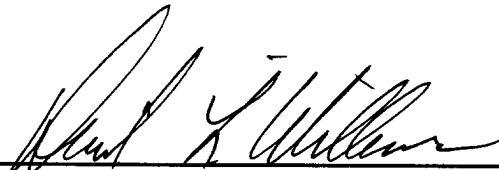
19 (7) Upon hearing both sides of the case, the tribunal may by a majority vote render its
20 decision or may defer its action for not more than five (5) days. Provisions of KRS
21 Chapter 13B notwithstanding, the tribunal decision shall be a final order and may be
22 rendered on the record.

23 (8) The superintendent may suspend the teacher pending final action to terminate the
24 contract, if, in his judgment, the character of the charge warrants the action. If after
25 the hearing the decision of the tribunal is against termination of the contract, the
26 suspended teacher shall be paid his full salary for any period of suspension.


27 (9) The teacher shall have the right to make an appeal to the Circuit Court having

1 jurisdiction in the county where the school district is located in accordance with
2 KRS Chapter 13B. The review of the final order shall be conducted by the Circuit
3 Court as required by KRS 13B.150.

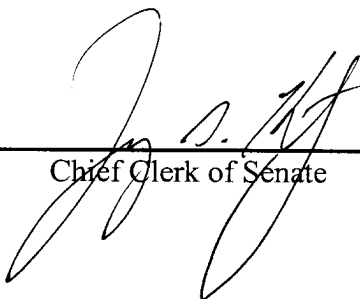
4 (10) As an alternative to termination of a teacher's contract, the superintendent upon
5 notifying the board and providing written notification to the teacher of the charge
6 may impose other sanctions, including suspension without pay, public reprimand, or
7 private reprimand. The procedures set out in subsection (3) of this section shall
8 apply if the teacher is suspended without pay or publicly reprimanded. The teacher
9 may appeal the action of the superintendent if these sanctions are imposed in the
10 same manner as established in subsections (4) to (9) of this section. Upon
11 completion of a suspension period, the teacher may be reinstated.



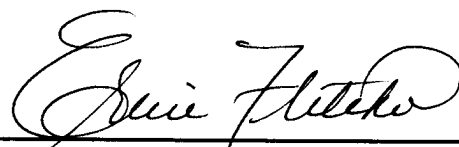
President of the Senate



Speaker-House of Representatives

Attest: 

Chief Clerk of Senate

Approved 

Governor

Date 4/21/06